

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

CHRISTOPHER DUNCAN

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Case No. 4:08cr194
(Judge Crone)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 4, 2013, to determine whether Defendant violated his supervised release. Defendant was represented by Ed King. The Government was represented by Ernest Gonzalez.

On August 13, 2009, Defendant was sentenced by the Honorable Marcia A. Crone to eighteen (18) months' imprisonment followed by a two (2) year term of supervised release for Unlawful User of a Controlled Substance in Possession of a Firearm. On December 10, 2010, Defendant completed his period of imprisonment and began service of his supervised term.

On December 4, 2012, the U.S. Probation Officer filed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) the defendant shall not commit another federal, state or local crime; and (2) the defendant shall not unlawfully possess a controlled substance. The petition also alleged violation of the following standard conditions: (1) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer; and (2) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances,

except as prescribed by a physician

The petition alleges that Defendant committed the following acts: (1) Defendant was arrested on November 11, 2012 for Possession of Marijuana and Possession of a Controlled Substance; (2) Defendant failed to notify his probation officer within seventy-two hours of his arrest; and (3) On August 27, 2012, Defendant submitted a urine specimen which tested positive for marijuana. Defendant admitted that he knowingly ingested a brownie laced with marijuana.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Court recommends that Defendant's supervised release be extended for one year pursuant to 18 U.S.C. 3564(d).

RECOMMENDATION

The Court finds that Defendant violated his conditions of supervised release. However, in lieu of ordering revocation, the Court recommends that Defendant's supervised release be extended for one year, under existing conditions.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 5th day of April, 2013.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE